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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,025	12/22/2005	Keith James Hensel	BRE0308U	5549
33372	7590	05/11/2009	EXAMINER	
MICHAEL MOLINS MOLINS & CO. SUITE 5, LEVEL 6 139 MACQUARIE ST SYDNEY NSW, 2000 AUSTRALIA			PAIK, SANG YEOP	
ART UNIT	PAPER NUMBER		3742	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,025	<b>Applicant(s)</b> HENSEL, KEITH JAMES
	<b>Examiner</b> SANG Y. PAIK	<b>Art Unit</b> 3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 November 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 21-40 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/DS/02)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no proper antecedent basis for "the upper extend of the gap".

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21, 23, 28-36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al (US 5,495,795) in view of Knapp (US 2,289,656) or Doering (US 2,590,237), and Prudhomme (US 5,317,964) or Nejat-Bina (US 5,636,923).

Harrison shows an electric juicing device having a lid/cap made of plastic with an opening for a feed tube, the cap having a smooth and continuous surface that extends to a pulp exit area, a rotating grating disk, second gap created between a pulp collector and a descending rim of the cap (shown in Figure 2). But, Harrison does not show the feed tube that is of a metal feed tube.

Knapp or Doering shows it is known in the art that a tube is attached to a lid having an opening thereon. Kanpp further shows the tube having a flange that is affixed to the cap, a juice stopping rim that is inclined slightly such that a tapered gap is most narrow at the bottom with respect to a descending rim of the cap. Prudhomme or Nejat-Bina shows that it is well known in the art to provide food processing apparatus with its assembled members that are made of plastics or metal such stainless steel.

In view of Knapp or Doering, and Prudhomme or Nejat-Bina, it would have been obvious to one of ordinary skill in the art to provide Harrison with a plastic, which is known to be produced with polymerization, and the a feed tube made of metal since it is known to provide food apparatus that is made of plastic or metal as an alternative materials that is known to provide a clean and yet corrosion resistant structure, and it would have been obvious to further provide with a tapered gap to alternatively seal off any overflowing juice.

With respect to claim 34, it would have been obvious to one of ordinary skill in the art to provide the pulp collector having a D shaped cross section or any other suitable cross section to allow a close fit with the juicing device as a routine experimentation that best services as the collection of the pulp.

5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Knapp or Doering, and Prudhomme or Nejat-Bina as applied to claims 21, 23, 28-36, 38 and 39 above, and further in view of McClean et al (US 5,479,851).

Harrison in view of Knapp or Doering, and Prudhomme or Nejat-Bina, shows the device claimed except a metal knife in the tube.

McClean shows that it is known to provide a metal knife in a feed tube, and it would have been obvious to one of ordinary skill in the art to adapt Harrison, as modified by Doering, and Prudhomme or Nejat-Bina, with a metal knife attached to the interior of the feed tube to more effectively cut the food/fruit items into smaller pieces.

6. Claims 24-27 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Knapp or Doering, and Prudhomme or Nejat-Bina as applied to claims 21, 23, 28-36, 38 and 39 above, and further in view of Rackov et al (US 5,524,906).

Harrison in view of Knapp or Doering, and Prudhomme or Nejat-Bina, shows the device claimed except the recited gasket.

Rackov shows it is well known to provide a gasket having a neck and a surrounding ring to receive a plurality of fasteners that engage with a flange of adjoining members.

In view of Rackov, it would have been obvious to one of ordinary skill in the art to adapt Harrison, as modified by Doering, and Prudhomme or Nejat-Bina, with the recited gasket to ensure a liquid tight seal between the feed tube and the cap member.

7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Knapp or Doering, and Prudhomme or Nejat-Bina as applied to claims 21, 23, 28-36, 38 and 39 above, and further in view of Tseng et al (US 6,397,736).

Harrison in view of Knapp or Doering, and Prudhomme or Nejat-Bina, shows the device claimed except a dent for receiving a locking bar.

Tseng shows a juicing device with a cap having a dent for receiving a locking bar (see Figure 1).

In view of Tseng, it would have been obvious to one of ordinary skill in the art to adapt Harrison, as modified by Doering, and Prudhomme or Nejat-Bina, with a dent and a locking bar to safely and securely close the cap over the juicing device.

***Response to Arguments***

8. Applicant's arguments filed 11/4/08 have been fully considered but they are not persuasive.

With respect to Prudhomme or Nejat-Bina, the applicant argues that neither of these prior art uses a feed tube, utilizes a pusher, and is relevant to demonstrate how plastic and metal can be joined for any advantageous purposes. It is noted that both Prudhomme and Nejat-Bina are in the same field of endeavor which is the field of containing and processing food items as in the other applied prior and that of the applicant's invention. It is further noted that Prudhomme and Neja-Bina are applied that it is known in the art that a food processing apparatus can be made of plastics or metal such as stainless steel an alternative suitable material. Furthermore, Neja-Bina shows a lid which is made of a plastic with a perforated cylinder (56) and a blade cylinder that are made of stainless steel or alternatively with a plastic as well (see column 4, lines 48-50), and Neja-Bina further shows another part such as a disc that can alternatively made of stainless steel or plastic. Thus, in light of Prudhomme or Neja-Bina which shows that it is known to make the food processing apparatus with its parts alternatively made of stainless steel and plastics, it would have been obvious to one of ordinary skill

in the art to adapt the main reference Harrison with its parts alternatively made of plastics or metal as deemed desired by the manufacturer.

With respect to claim 23, it is noted that Knapp is applied to show the recited flange (38) that is used to affix the tube to the cap/cover.

With respect to claims 29 and 30, the tapered gap is shown by Knapp in the area where the descending rim of the cover meets the inner surface of the juice stopping rim (31) in the area shown near the reference numeral (37) in Figure 1 of Knapp. Claim 29 was inadvertently left out in the office action of 10/22/08, but it is noted that the subject matter of claim 29 is treated on the merit as stated in the ground of rejection on page 3 on the detailed office action of 10/22/08.

Since the interchangeable material of plastics and metal such as stainless steel is clearly taught by Prudhomme and Nejat-Bina which are also in the same field of endeavor with Harrison, it would have been obvious to one of ordinary skill in the art to provide the feed tube with a metal in place of the plastic as such interchangeability is well known in the art and would have yielded the predictable apparatus as that of the claimed device without destroying any intended purposes.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG Y. PAIK whose telephone number is (571) 272-4783. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571) 272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SANG Y PAIK/

Primary Examiner, Art Unit 3742